

**Eighth and Final Account and Report of the Trustee of the Alison Miller Special Needs Trust and Petition for Its Settlement, for Approval of Attorney Fees for Ordinary Services and for Final Distribution**

<b>DOD: 1/8/13</b>		<b>MATTHEW MILLER</b> , Successor Trustee, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  Continued from 3/4/14. Minute order states Counsel to submit a declaration regarding the 45 hours exhausted to prepare the 8 <sup>th</sup> Account.  1. Need further declaration of attorney fees re: 8 <sup>th</sup> Account.
		Account period: 1/9/13 – 10/31/13	
		Accounting - <b>\$771,179.29</b>	
		Beginning POH - <b>\$759,077.00</b>	
		Ending POH - <b>\$723,713.83</b>	
		Trustee - <b>waives</b>	
		Attorney - <b>\$16,137.50</b> (per itemization and declaration for 64.55 hours @ \$250.00 per hour for preparation of the 8 <sup>th</sup> account, reviewing DHCS claim and court appearance.)	
		Petitioner states Allison Miller the Trust granted Allison Miller a power of appointment over the assets of the Trust. Pursuant to an Order for Substituted Judgment filed on 8/14/12, in this court, case no. 0437854 Petitioner executed a power of appointment on Allison's behalf.	
		Petitioner states he has been served with a claim from the Department of Health Care Services in the amount of \$289,607.85 for reimbursement of medical claims paid on Alison's behalf prior to her death.	
		Petitioner prays for an order that:	
		1. The administration of the trust be brought to a close;	
		2. The eighth and final account be settled, allowed and approved, and all acts and transactions of petitioner set forth in it or relating to the matters set forth in it, be ratified confirmed, and approved.	
		3. Payment of attorney fees in the sum of \$16,137.50.	
		4. Distribution of the Trust to the Department of Health Care Services in the amount of \$289,607.85 with the remaining assets being distributed to Alison's brothers, Matthew Miller and Andrew Miller pursuant to the power of appointment.	
<b>Cont. from 030414</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	W/	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

Reviewed by: **KT**Reviewed on: **3/20/14**

Updates:

Recommendation:

File 1 – Miller

Atty Hemb, Richard E., of Hemb Law Office (for Gloria Reyes, Administrator)

## Probate Status Hearing Re: Failure to File the Inventory and Appraisal and Failure to File a First Account or Petition for Final Distribution

<b>DOD: 9/16/2009</b>	<p><b>GLORIA REYES</b>, daughter, was appointed Administrator with Full IAEA authority without bond on 2/10/2010.</p> <p><b>Letters issued on 2/10/2010.</b></p> <p><b>Pursuant to Probate Code § 8800(b)</b>, <i>Final Inventory and Appraisal</i> was due <b>6/10/2009</b>.</p> <p><b>First account and/or petition for final distribution was due February 2011.</b></p> <p><b>Notice of Status Hearing filed 11/15/2013</b> set this status hearing on 1/10/2014 for failure to file the inventory and appraisal and first account and petition for final distribution.</p> <p><b>Status Conference Statement filed 1/7/2014 states:</b></p> <ul style="list-style-type: none"> <li>The only asset in the estate was Decedent's personal residence located on Dwight Way, Fresno;</li> <li>After negotiating with Wells Fargo Reverse Mortgage, the Administrator made the decision that efforts to sell the real property would not bring in sufficient funds to pay off the encumbrance and costs of sale;</li> <li>The lender foreclosed without a probate appraisal;</li> <li>This appears to be a no-asset estate;</li> <li>Robert Reyes, spouse of Administrator Gloria Reyes, has recently advised legal counsel that Gloria Reyes passed away on 5/26/2012.</li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>OFF CALENDAR</b></p> <p><i>Petition for Termination of Further Proceedings</i> was filed 3/18/2014 by Attorney Hemb, and is set for hearing on <b>4/29/2014</b>.</p> <p><b>Page 2B</b> is the <i>Motion to be Relieved as Counsel</i>.</p> <p><b>Continued from 2/11/2014</b> to coincide with the hearing on the <i>Motion to be Relieved as Counsel</i>.</p>
Cont. from 011014, 021114		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
✓ Status Rpt		
UCCJEA		
Citation		
FTB Notice		

<b>Reviewed by:</b> LEG
<b>Reviewed on:</b> 3/24/14
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 2A – Juarez</b>

2A

Atty Hemb, Richard E., of Hemb Law Office (Movant)

## Notice of Motion and Motion to be Relieved as Counsel

<b>DOD: 9/16/2009</b>		<b>RICHARD E. HEMB</b> , Attorney of record for Personal Representative <b>GLORIA REYES</b> , is Movant.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Movant requests</b> under Code of Civil Procedure § 284(2) and CA Rule of Court 3.1362 an order permitting him to be relieved as attorney of record in this proceeding.	<b>Continued from 2/11/2014.</b> Minute Order states the matter is continued to 3/25/2014 pending the filing of a petition to close the estate.
<b>Cont. from 021114</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	<p><b>Movant states</b> in the accompanying declaration in support of the motion that he makes this motion to be relieved as counsel under Code of Civil Procedure § 284(2) instead of filing a consent under § 284(1) for the following reasons:</p> <ul style="list-style-type: none"> <li>No inventory and appraisal was filed in this case because the personal representative <b>GLORIA REYES</b> never supplied requested information on estate assets;</li> <li>He provided Gloria Reyes instructions and request to take action by written communication and telephone calls from 2/10/2010 up to and including 2/2/2011;</li> <li>No response was ever received from the client;</li> <li>He learned that the real property in the estate was foreclosed by a lender;</li> <li>He is not aware of efforts to sell the real property to a third party, or if such a sale was possible to avoid foreclosure;</li> <li>On 1/2/2014, he received a call from <b>ROBERT REYES</b>, husband of Gloria Reyes, who confirmed that the property was lost via foreclosure;</li> <li>Mr. Reyes also indicated to Movant that Gloria Reyes, the court-appointed representative, died on 5/26/2012, and that Mr. Reyes informed Court staff of this fact by telephone call;</li> <li>Movant has been led to believe, and does in fact now believe, that the client is now deceased.</li> </ul> <p><b>Declaration of Robert Reyes filed 1/17/2014 states:</b></p> <ul style="list-style-type: none"> <li>He was married to Gloria Reyes; she was appointed Administrator by the Court on 2/10/2010;</li> <li>Gloria Reyes made a decision after exploring the alternatives that selling Decedent's real property on Dwight Way would fail to provide sufficient funds to pay off the encumbrance by Wells Fargo Reverse Mortgage and other selling costs; said real property was eventually taken by Wells Fargo Reverse Mortgage and was the only asset in the estate;</li> <li>Gloria Reyes passed away on 5/26/2012 (copy of death certificate attached) and was the same person who was appointed as personal representative of the estate.</li> </ul>	<p><b>Note:</b> If Court grants the instant motion to be relieved, no person will exist to close this no-asset estate, as the personal representative is deceased, and pursuant to the Notice of Motion Judicial Council form MC-051 itself: "the client will be solely responsible for the case."</p>
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

Reviewed by: LEG

Reviewed on: 3/24/14

Updates:

Recommendation:

File 2B – Juarez

<b>DOD: 4-30-13</b>		<p><b>MARGUERITE S. HUGHES</b>, Niece and Conservator, is Petitioner.</p> <p><b>Account period: 5-18-11 through 4-30-13</b>  Accounting: \$765,196.01  Beginning POH: \$480,744.00  Ending POH: \$502,772.66</p> <p><b>Account period: 4-30-13 through 11-30-13</b>  Accounting: \$531,378.66  Beginning POH: \$502,772.66  Ending POH: \$489,750.99  (\$138,861.00 cash plus annuity, bonds, taxes withheld)</p> <p><b>Conservator: Waived</b>  Petitioner states she has spent over 200 hours providing services including frequently visiting the care facility and meeting with staff to ensure care, diet, and services, payment of bills, and frugal management of the estate. Petitioner states that she could reasonably request \$6,000.00, which works out to about \$30/hr; however, Petitioner is waiving her fees at this time.</p> <p><b>Attorney: \$5,000.00</b>  Attorney states he spent approx. 53 hours @ \$250/hr, which would total \$13,250.00; however, the request is reduced to \$5,000.00. Declaration includes:</p> <ul style="list-style-type: none"> <li>• Approx. five (5) hours preparing copies and mailing notice in connection with the First Accounting</li> <li>• Approx. 28 hours (SUBSTANTIALLY more than 20 hours preparing the second account, meeting with the conservator, four (4) hours preparing the notice, filing, obtaining a hearing date, mailing notice</li> <li>• 10 hours preparing this amended supplement, including notice, etc.</li> <li>• 10 hours – After filing the First Accounting, there have been five appearances at approx. 2 hours each.</li> </ul> <p>Petitioner has been appointed as Administrator with Will Annexed of the Conservatee/Decedent's probate estate in 13CEPR00750.</p> <p><b>Petitioner prays for an order:</b></p> <ol style="list-style-type: none"> <li>1. Approving and settling this account;</li> <li>2. Approving the acts of Petitioner;</li> <li>3. Authorizing Petitioner to waive her fees for services rendered as conservator;</li> <li>4. For payment of the sum of \$5,000.00 to Attorney Dennis L. Watson</li> <li>5. That the remainder of the assets be distributed to the probate estate 13CEPR00750</li> <li>6. For such other and further relief as the Court deems proper.</li> </ol>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Attorney provides a declaration, but does not provide itemization. As previously noted, the Court may require itemization.</li> <li>2. Need order pursuant to Local Rule 7.6.1.</li> </ol>
<b>Cont. from 021114</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> W		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>2620(c)</b>		
<input type="checkbox"/>	<b>Order</b> X		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

Reviewed by: skc

Reviewed on: 3-24-14

Updates:

Recommendation:

File 3 – Peters

(1) First Account Current, Report of Conservator and Petition for Its Settlement and  
(2) Allowance of Attorneys' Fees and Costs

<b>Age: 39</b>		<b>LISA MEGERDICHIAN</b> , Conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		Account period: <b>02/27/13 – 12/31/13</b>	
		Accounting - <b>\$147,251.26</b>	
		Beginning POH - <b>\$122,642.26</b>	
		Ending POH - <b>\$128,782.53</b>	
<b>Cont. from</b>		Petitioner states that the conservatee receives government benefits on a debit card. The debit card is in possession of and used by the conservatee and monitored by the Petitioner for the appropriateness of the expenditures. The conservatee uses the debit card primarily for food, fuel to those who transport him, clothing, entertainment, and toiletries and supplies. Periodically, Petitioner transfers funds from the debit card account to the conservatorship account to cover bills and expenses. The debit card payments will discontinue in February 2014. Thereafter Petitioner intends to provide the conservatee with a separate debit card funded with \$500.00 at the beginning of each month and \$500.00 in the middle of each month. Petitioner believes providing the conservatee with access to these funds allows him a degree of independence that he desires. Petitioner intends to monitor the appropriateness of the expenditures.	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	w/	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input checked="" type="checkbox"/>	<b>CI Report</b>	Petitioner has provided an accounting of the debit card activity for the period of 02/27/13 – 12/31/13 as follos:	
<input checked="" type="checkbox"/>	<b>2620(c)</b>	Accounting - <b>\$36,167.61</b>	
<input checked="" type="checkbox"/>	<b>Order</b>	Beginning POH - <b>\$8,035.58</b>	
<input type="checkbox"/>	<b>Aff. Posting</b>	Ending POH - <b>\$386.97</b>	
<input type="checkbox"/>	<b>Status Rpt</b>	Conservator - <b>waived</b>	
<input type="checkbox"/>	<b>UCCJEA</b>	Attorney - <b>\$6,289.50</b> (12.5 attorney hours (.2 @ \$415/hr; 1.8 @ \$315/hr and 10.3 @ \$250/hr.) and 22.7 paralegal hours @135/hr.)	
<input type="checkbox"/>	<b>Citation</b>	Costs - <b>\$577.50</b> (probate referee, filing fees)	
<input type="checkbox"/>	<b>FTB Notice</b>	<b>Petitioner prays for an Order:</b> 1. Approving, allowing and settling the First Account and report of Conservator; and 2. Authorizing the attorney's fees and costs.	
		<b>Court Investigator Julie Negrete filed a report on 02/14/14.</b>	

Reviewed by: JF

Reviewed on:  
03/21/14

Updates:

Recommendation:

File 4 –  
Assodourian

# Petition for Citation Compelling Daniel J. McCann to Account for Estate Assets and to Transfer Property to Co-Executors

DOD: 8-7-10		<p><b>JOHN P. MCCANN and COLLEEN E. DEMPSEY,</b> Co-Executors, are Petitioners.</p> <p><b>Petitioners state</b> Elizabeth A. McCann died testate on 8-7-10. Petitioners were appointed as Co-Executors of the estate on 10-25-13. Mrs. McCann's will is a pour-over will that provides that any assets not held in the John P. McCann and Elizabeth A. McCann Declaration of Trust dated April 2, 1999 (the trust) at the time of her death, shall, upon administration, be distributed to the trustees of her survivor's trust for distribution according to its terms, as amended. Petitioners are also the co-trustees of Mrs. McCann's survivor's trust.</p> <p>Petitioners state that pursuant to the terms of the trust, Dr. and Mrs. McCann declared their intent that all assets owned by them, jointly or singly, including all assets subsequently acquired, are assets of the trust. Upon Dr. McCann's death on 10-12-06, Mrs. McCann became the sole trustee of the trust. The trust provided that all assets of the trust were to be divided and allocated among a survivor's trust, a marital trust, and a unified credit trust.</p> <p>On 10-7-08, Mrs. McCann stepped back from the day-to-day administration of the trust and appointed four of her children to serve as co-trustees: John, Colleen, Kathleen M. Whitehurst, and Daniel J. McCann ("Dan"). Mrs. McCann also signed an asset allocation agreement dividing the trust assets as set forth above.</p> <p>Prior to and following her appointment of the four children as co-trustees, there were two accounts at Merrill Lynch titled in the name of "Elizabeth A. McCann." These accounts consisted of a Cash Management Account (CMA) and a Loan Management Account (LMA), both of which were used to pay Mrs. McCann's personal expenses.</p> <p><b>SEE ADDITIONAL PAGES</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. The petition alleges wrongdoing prior to the death of the decedent and an order under Probate Code §859 requires findings that may be appropriate to civil action rather than litigation within the probate estate. Need authority to continue under this section.</p> <p>2. Also, the assets are alleged to be trust assets rather than estate assets. Petitioners allege that Daniel McCann has refused and continues to refuse to provide an accounting of these assets in connection with the trust, and have now filed on behalf of the estate <u>in abundance of caution</u> if the assets are indeed Mrs. McCann's individual assets. The Court may require authority to continue at this time in this estate case rather than in the trust action or some other civil action under W&amp;I Code under the circumstances.</p> <p>3. Petitioners request payment of attorney fees from Dan's share of the trust. Need authority for this order within the estate case.</p>
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

## Page 2

**Petitioners state** that although these accounts were understood to be assets of the sub-trust, title remained in the name of Mrs. McCann individually.

Unbeknownst to Petitioners, Dan, who resided with Mrs. McCann at her homes in San Antonio, Texas, and Vermont between 2007 and 2009, obtained a written **durable power of attorney dated 3-18-08 (the 2008 DPOA)** that gave him complete authority over the Merrill Lynch CMA and LMA (attached). While the DPOA authorized Dan to make gifts to himself, his authority was limited to gifts for his "health, education, support or maintenance."

Petitioners state Dan had also been appointed as a co-attorney-in-fact for Mrs. McCann under a **separate durable power of attorney dated 5-21-07 (the 2007 DPOA)**. While this DPOA gave Dan authority to make gifts to himself, the amount of the gifts could not exceed the amount of the annual federal gift tax exclusion.

Petitioners are informed and believe and allege thereon that by the terms of the 2007 DPOA and the 2008 DPOA, as well as his status as a co-trustee, Dan occupied the position of a fiduciary and owed a fiduciary duty to at all times act in the best interests of Mrs. McCann. Mrs. McCann reposed her trust and confidence in Dan, her youngest son, and believed in his fidelity and integrity by entrusting him with the authority to engage in transactions on the Merrill Lynch CMA and LMA.

Petitioners state that in breach of his fiduciary duty, in bad faith, and without the knowledge or consent of Petitioners, Mrs. McCann, or co-trustee Kathleen, Dan utilized the DPOAs and his authority as a co-trustee to make a number of substantial unauthorized expenditures from the Merrill Lynch CMA and LMA while he was living with and helping care for Mrs. McCann and purportedly handling her affairs, including, but not limited to:

- Payments of \$781,966.39 to American Express for Dan's and his companion Steven Mullen's personal credit card bills;
- Approx. \$225,000.00 of additional expenditures for Dan's personal benefit.
- \$1,055,908.28 between June 2007 and October 2009 (an average of \$37,711/month) (See petition for specifics)

Petitioners state some of the items Dan purchased were a Cartier gold bracelet, designer shoes, airfare, artwork, Louis Vuitton luggage, hotel stays, a silver and gold dog tag for his golden retriever, and fabrics and furnishings for clients of his interior design business that Petitioners believe were also separately paid for by his design clients. Dan never reimbursed the CMA for any of the monies used for personal and business expenses.

Petitioners state that while Dan was living with Mrs. McCann and following her execution of the asset allocation agreement, Petitioners attempted to obtain Dan's cooperation to change the title of the CMA and LMA to reflect their inclusion as assets of the sub-trusts; however, Petitioners were unable to obtain Dan's cooperation and thus title remained in Mrs. McCann's name individually, although both accounts were used to pay expenses related to trust administration.

**SEE ADDITIONAL PAGES**

## Page 3

**Petitioners state** prior to Mrs. McCann's death on 8-7-10, Dan never disclosed the extent of his use of the funds from the CMA and LMA, and did not permit her to review the monthly statements or grant her access to account information online. Following her death, Petitioners requested an accounting for the benefit of the trust. Dan refused and continues to refuse to provide a complete accounting of the nature and purpose of his disbursements from the CMA and LMA.

On 5-9-12, Petitioners, in their capacity as successor co-trustees of the trust and sub-trusts, filed a petition against Dan to recover the funds misappropriated by him from the CMA and LMA. This petition was filed as a trust proceeding on the grounds that the accounts were trust assets notwithstanding their title in Mrs. McCann's name individually.

In about April 2013, Dan took the position that the CMA was not an asset of the trust, but was an asset of Mrs. McCann individually, and most recently at his deposition in November 2013, Dan admitted that a number of disbursements were for his personal or business expenses, or those of his companion, and he should have reimbursed Mrs. McCann. Accordingly, within the last three years, due to information provided by Dan, Petitioners became aware of his theft of assets purportedly belonging to Mrs. McCann individually.

Petitioners state Dan owed fiduciary duties to Mrs. McCann due to his role as her primary caretaker, as her attorney-in-fact under two DPOAs and as the person in whom she placed her trust and confidence to manage her income and expenses in her best interest. Petitioners state Dan in bad faith breached these fiduciary duties by misappropriating assets from the CMA and LMA, by refusing to provide information regarding his financial activities under the 2007 DPOA or to the co-trustees of the trust at the time ("none of their business"), by actively concealing from Mrs. McCann the full scope of his use of her assets, and by preventing her from opening her own mail and discovering the improper expenditures herself. When asked to account, Dan refused, and continues to refuse, to provide a complete accounting.

Though Petitioners have already asserted in the trust action that the CMA and LMA were trust assets during Mrs. McCann's life, and remain assets of the trust to this date, this petition is filed in the probate action out of an abundance of caution because the co-trustees cannot recover assets belonging to the estate notwithstanding that the co-trustees are the beneficiaries, in their capacities as fiduciaries, of Mrs. McCann's estate under the terms of the will. If Dan is correct and these accounts were personal non-trust assets of Mrs. McCann, they would be subject to the estate and not the trust.

**SEE ADDITIONAL PAGES**



**Page 4**

Based on the foregoing, and pursuant to Probate Code §§ 1241 and 8873, Dan should be ordered to appear before this Court and account for his expenditures from the CMA and LMA and be compelled to produce all documents relevant to the nature and purpose of said expenditures and transfers. As to those made in bad faith, Dan should be ordered to return or reimburse the estate with interest and should be held liable for twice the value ordered under § 859.

**Petitioners pray for an order:**

- 1. Directing Dan to account and report for his use of any and all of Mrs. McCann's non-trust assets;**
- 2. Directing Dan to return to, or reimburse, the estate for all assets wrongfully taken by him and by his companion with interest at the legal rate;**
- 3. Directing Dan to pay the estate an amount equal to twice the value of all assets recovered herein pursuant to Probate Code § 859;**
- 4. Directing that Petitioners' attorneys' fees and costs be charged against Dan's share of the trust upon final distribution; and**
- 5. For such other and further orders as the Court deems proper.**

Atty Shafer, Claudia Y. (of Murphys, CA for Hugo Noroyan – father/Contestant)

Atty Kruthers, Heather H. (for Public Administrator – Administrator)

Atty Motsenbocker, Gary L. (for Patricia English – mother/Contestant)

Atty Keeler, William J. (for Ian Mitchinson – friend/Respondent)

**Contest and Grounds of Objection to Probate of Purported Will****DOD: 03/28/13****Cont. from****Aff.Sub.Wit.**✓ **Verified****Inventory****PTC****Not.Cred.****Notice of  
Hrg**

x

✓ **Aff.Mail**

w/

**Aff.Pub.****Sp.Ntc.****Pers.Serv.****Conf.  
Screen****Letters****Duties/Supp**✓ **Objections****Video  
Receipt****CI Report****9202**✓ **Order****Aff. Posting****Status Rpt****UCCJEA****Summons**

x

**FTB Notice**

On 01/23/14, **IAN MITCHINSON**, friend, filed a Petition for Probate seeking to be appointed as Administrator with Will Annexed and have a holographic instrument purported to be decedent's will dated 11/02/12 admitted to Probate.

**Contest and Grounds of Objection to Probate of Purported Will** filed 02/21/14 by Patricia English (mother) states:

1. She has standing to contest and object to the purported because she is an intestate heir of the decedent.
2. The alleged document proffered as decedent's will does not meet the statutorily prescribed validity requirements of the Probate Code for a will.
3. Contestant alleges that the "will" is not, and never was, decedent's last will and testament and that at the time of its alleged execution, said execution was procured by fraud, duress and/or undue influence by Respondent, Ian W. Mitchinson. The Contestant alleges and contends that the latter portion of the document purported to be decedent's "will" was added without the decedent's knowledge or consent. Contestant is informed and believes that the decedent never intended to leave his estate or his "winnings" to the Ian Mitchinson.
4. Contestant alleges that the "will" was not executed by the decedent and/or attested in the manner and in the form required by law for the due execution of a will.
5. Contestant alleges that on the date of the alleged execution of the "will", decedent lacked the requisite testamentary intent.
6. Contestant alleges that Respondent took unfair advantage of the Decedent; that Respondent arranged for the "witnessing" of the purported will; that the will was not the free and voluntary act of decedent; that the "will" was the product of Respondent's undue influence, duress and/or coercion that it unduly profited the Respondent.

Continued on Page 2

**NEEDS/PROBLEMS/COMMENTS:**

**Notes:** Father, Hugo Noroyan and Mother, Patricia English, both filed competing Petitions to be appointed as Administrator. On 08/19/13, the Court denied both petitions and appointed the Public Administrator. Letters of Administration were issued to the Public Administrator on 08/30/13.

**Note: Contest and Grounds for Objection to Probate of Purported Will** was filed 02/26/14 by Hugo Richard Noroyan (decedent's father) and is set for hearing on 04/02/14.

The Matter is set for a settlement conference on 04/28/14.

These notes pertain to the Contest and Objection filed by Patricia English:

1. Need Summons and proof of service of Summons.
2. Need Notice of Hearing.

**Reviewed by:** JF**Reviewed on:** 03/21/14**Updates:****Recommendation:****File 6 – Noroyan**

7. Contestant alleges that the underlying agreement is invalid and unenforceable as it is against public policy agreement by its terms and that the agreement is "usurious" and that the express purpose of the loan is contrary to public policy in that it is a gambling related agreement or activity of gambling; and that such agreements are either expressly prohibited by law or are unenforceable as "otherwise contrary to good morals" which is in violation of the public policy of this state.
8. Contestant alleges that if the agreement and/or any provision of the agreement is in furtherance of a gambling related agreement or activity it is expressly and impliedly against public policy and that as such it is unenforceable; that the agreement by its terms is unconscionable and if enforced the Respondent would be unjustly enriched; that the Respondent would reap an undue profit; and that the disposition proposed by the instrument is unnatural.
9. Contestant alleges that the underlying debt was paid by the decedent, further that the note should have been returned to the decedent marked "paid in full"; and that pursuant to law all terms of the note were discharged upon the payment of debt; or in the alternative that the note and all obligations under the agreement were extinguished upon the payment of the underlying obligation.

**Objector/Contestant requests that this Court order that:**

1. The *Contest and Grounds of Objection to Probate of Purported Will* be allowed and approved as filed;
2. The purported "will" be denied admission to Probate;
3. The Petitioner's petition be denied in its entirety;
4. The petition be dismissed with prejudice;
5. The Contestant be awarded reasonable attorney's fees; and
6. The Contestant be awarded costs of the suit.

**Note:** The following **Contest and Grounds for Objection to Probate of Purported Will** is not set for hearing until 04/02/14; however, the Examiner has provided a review of this document here for clarity and convenience:

**Contest and Grounds for Objection to Probate of Purported Will** filed 02/26/14 by Hugo Richard Noroyan (father) states:

1. Decedent died on 03/28/13. On 01/23/14, Ian Mitchinson (hereinafter "Respondent") filed in this court a document dated 11/02/12, purporting to be the last will of the decedent, together with a petition requesting that the document be admitted to probate as the decedent's last will and that letters of administration be issued to Respondent.
2. Contestant alleges that the document was not executed by decedent and attested in the matter and form required by law for the execution of a will.
3. Contestant alleges that the document is not and never was decedent's will and was made at the time of its alleged execution as a result of undue influence, fraud and duress to which decedent was subjected to by Respondent in that:
  - a. At the time the purported will was procured, Respondent knew the decedent had recently won one million dollars at an Indian casino. He also knew decedent was in poor health, had a gambling addiction and as a result he placed his trust and confidence in Respondent who took unfair advantage of decedent's state of mind.
  - b. During the same time period, by reason of the relationship of decedent with Respondent, Respondent was able to exert control and influence over the mind and actions of Decedent to such a point that Decedent was no longer capable of exercising his own conviction or desire with regard to his actions or thoughts, but rather, because of the pressure brought on him by Respondent, both by coercion and entreaty, decedent's convictions or desires became the convictions or desires imposed on him by Respondent.

Continued on Page 3

- c. During this time, while decedent was under duress and Respondent's undue influence, Respondent wrote the contents or and arranged for witnesses to the document submitted for probate to this court by Respondent. At the time the document was allegedly executed, decedent was wholly under the influence of Respondent and the document does not represent the free and voluntary act of decedent.
4. Contestant alleges that the document offered for probate cannot be construed as a conditional will in that:
  - a. The top part of the writing offered for probate is an apparent note for repayment of a gambling debt which on its face is usurious under the law and unenforceable.
  - b. The decedent paid back the debt to Respondent thereby extinguishing the terms of the note and therefore there is no relationship between the top part of the writing and the bottom part of the writing, which was written by the Respondent at a different time unbeknownst to the decedent in order to defraud the decedent and unjustly acquire his gambling winnings.

**Contestant requests that the purported will be denied probate, for costs of suit and all other proper relief.**

**Consolidated Answer of Ian W. Mitchinson to Written Oppositions of Probate of Purported Will** filed 03/07/14 states:

1. Respondent denies all of the allegations in both Oppositions other than to admit that the decedent died on 03/28/13 as a resident of Fresno County and that he was never married and had no children.
2. Affirmative defenses are asserted as follows:
  1. Failure to state grounds – the contest and grounds of opposition to probate of the purported will fails to state facts sufficient to grounds of opposition to probate of the will.
  2. Superseding cause – Respondent alleges that the Contestants are barred from any recovery by reason of acts or omissions of Contestants and/or others which acts or omissions constitute an intervening or superseding cause of their disinheritance and lack the standing to inherit, if any there be.
  3. Excuse – Contestants' rights to inherit and any acts or omissions on Contestants' part, if any, are excused by the acts, errors, or omissions and nonperformance of Contestants.
  4. Lack of Relationship – Respondent alleges that there was no relationship whatsoever between decedent and Contestant Noroyan giving rise to standing as an intestate heir.
  5. Lack of Standing – Contestant Noroyan lacks standing to assert any ground of contest to the Petition for Probate.
  6. Vague, Ambiguous, Uncertain, and Lack of Specificity – Contestants' Oppositions and contest of the Petition for Probate and their purported grounds of contest and each of them, are vague, ambiguous, uncertain, and fail to allege adequate specificity required by California law, the California Probate Code and California rules of Civil Procedure.
  7. Other defenses – Respondent presently has insufficient knowledge or information on which to form a belief as to whether additional affirmative defenses may exist. Accordingly, Respondent reserves the right to assert additional affirmative defenses in the event discovery indicates they would be appropriate.

**Respondent requests judgment as follows:**

1. That the contest and grounds of opposition to the purported will be dismissed with prejudice and Contestants English and Noroyan take nothing by their actions;
2. That decedent's estate be admitted to probate and administered according to the will dated 11/02/12; and
3. That Respondent be awarded costs of suit.

<b>DOD: 6/11/13</b>		<b>CHARLES O. PHILLIPS</b> , Executor, is petitioner.  Accounting is waived.  I & A - <b>\$151,423.23</b> POH - <b>\$142,256.96</b>  Executor - <b>waives</b>  Attorney (statutory) - <b>\$5,542.70</b>  <b>Distribution, pursuant to Decedent's Will, is to:</b>  Charles O. Phillips - \$20,857.08 and ½ interest in real property.  Bernice L. Phillips - \$20,857.08 and ½ interest in real property.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input checked="" type="checkbox"/>	<b>Inventory</b>		
<input checked="" type="checkbox"/>	<b>PTC</b>		
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> W/		
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
<input checked="" type="checkbox"/>	<b>Letters</b> 8/19/13		
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
<input checked="" type="checkbox"/>	<b>FTB Notice</b>		
		<b>Reviewed on: 3/21/14</b>	
		<b>Updates:</b>	
		<b>Recommendation: SUBMITTED</b>	
		<b>File 7 – Phillips</b>	

**(1) Waiver of Accounting and Petition for Final Distribution and for (2) Allowance of Compensation**

<b>DOD: 04/18/2013</b>		<b>BRENT WISE</b> , executor, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need Property on Hand Schedule pursuant to California Rules of Court 7.550 b(4).  2. Prayer of the Petition does not include a request for Attorney's Statutory Fees.  3. Petition does not include a Statement regarding Probate Code §216 and Probate Code §9202 re notice to the Director of the Victims Compensation.  4. Petition does not include a Statement regarding whether or not notice to the Franchise Tax Board was performed pursuant to Probate Code §9202(c)(1).  5. Local Rule 7.12.1 states a petition for distribution must list and describe in detail all property to be distributed. The description shall include cash on hand. Promissory notes must be described as secured or unsecured. If secured, the security interest must be described. The legal description and APN of all real property must be included. Description in the petition of any asset by reference to the inventory is not acceptable.  6. Need Order.
		Accounting is waived.	
		1 & A - <b>\$403,171.55</b>	
		POH - <b>?</b>	
<b>Cont. from</b>		Executor – Waives	
<input checked="" type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Attorney - \$11,063.43	
<input checked="" type="checkbox"/>	<b>Verified</b>		
	<b>Inventory</b>		
	<b>PTC</b>		
	<b>Not.Cred.</b>		
	<b>Notice of Hrg</b>	n/a	
	<b>Aff.Mail</b>	n/a	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>	10/08/2013	
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
	<b>Order</b>	x	
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>	x	
			<b>Reviewed by:</b> LV
			<b>Reviewed on:</b> 03/21/2014
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 8 – Wise</b>

**Petition for Probate of Will and for Letters Testamentary; Authorization to  
Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 08/11/2013</b>		<b>KENNETH MEME</b> , son/named executor without bond, is petitioner.  Full IAEA - ok  Will Dated: 12/01/1989  Residence: Fowler Publication: The Fresno Bee  <u><b>Estimated value of the Estate:</b></u> Personal property - \$19,508.00 Real property - \$180,000.00 <b>Total: - \$199,508.00</b>  Probate Referee: Steven Diebert	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need Affidavit of Publication in the correct newspaper pursuant to Local Rule 7.9A. Petition indicates decedent's residence at the time of death was Fowler, California, therefore the correct publication should be The Fowler Ensign. Petitioner published in the Fresno Bee.  <u><b>Note:</b></u> If the petition is granted status hearings will be set as follows:  • <b>Friday, 08/29/2014 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <u>and</u>  • <b>Friday, 05/29/2015 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.  Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.	
<b>Cont. from 022514</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			x
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>			
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>			w/
<input type="checkbox"/>	<b>Aff.Pub.</b>			x
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>			
<input checked="" type="checkbox"/>	<b>Letters</b>			
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>			
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			
<b>Reviewed by:</b> LV <b>Reviewed on:</b> 03/20/2014 <b>Updates:</b> <b>Recommendation:</b> <b>File 9 – Meme</b>				

Atty Munsey, Lisa (Pro Per – Petitioner – Daughter)

Atty Walters, Jennifer L. (Court Appointed for Proposed Conservatee)

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C.  
1820, 1821, 2680-2682)

Age: 70		NEEDS/PROBLEMS/COMMENTS:  <b><u>OFF CALENDAR. AMENDED PETITION FILED 03/06/2014. HEARING SET FOR 04/16/2014.</u></b>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LV
		Reviewed on: 03/24/2014
		Updates:
		Recommendation:
		File 10 – Munsey



Age: 12 years		<u>Temporary Expires on 3/25/14</u>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>LYDIA GAYTAN</b> , paternal grandmother, is petitioner.		1. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice on: a. Raymond Guiba III (minor, age 12)	
		Father: <b>RAYMOND GUIBA</b> – consents and waives notice.			
		Mother: <b>MARIE TORREZ</b> – consents and waives notice.			
<b>Cont. from</b>		Paternal grandfather: Raymon Guiba – consents and waives notice.			
	<b>Aff.Sub.Wit.</b>		Maternal grandfather: Steve Torrez – mailed notice on 1/29/14.		
✓	<b>Verified</b>		Maternal grandmother: Margaret Marin – mailed notice on 1/29/14.		
	<b>Inventory</b>				
	<b>PTC</b>				
	<b>Not.Cred.</b>				
✓	<b>Notice of Hrg</b>				
✓	<b>Aff.Mail</b>	W/			
	<b>Aff.Pub.</b>				
	<b>Sp.Ntc.</b>				
	<b>Pers.Serv.</b>				
✓	<b>Conf. Screen</b>				
✓	<b>Letters</b>				
✓	<b>Duties/Supp</b>				
	<b>Objections</b>				
	<b>Video Receipt</b>				
✓	<b>CI Report</b>				
	<b>9202</b>				
✓	<b>Order</b>				
	<b>Aff. Posting</b>				
	<b>Status Rpt</b>				
✓	<b>UCCJEA</b>				
	<b>Citation</b>				
	<b>FTB Notice</b>				
				<b>Reviewed by: KT</b>	
				<b>Reviewed on: 3/21/14</b>	
				<b>Updates:</b>	
				<b>Recommendation:</b>	
				<b>File 11 – Guiba</b>	

**Petition for Appointment of Guardian of the Person (Prob. C. 1510)**

<b>Alex age: 4</b>	<p><b>TEMPORARY EXPIRES: 3/25/14</b></p> <p><b>CARESS GUTIERREZ</b>, maternal aunt, is petitioner.</p> <p>Father: <b>ALEX ORTIZ</b> – Court dispensed with notice per minute order dated 2/6/14 (unless his whereabouts became known, it appears that Mr. Ortiz is currently incarcerated in the Fresno County Jail).</p> <p>Mother: <b>SELINA GUTIERREZ</b> – consents, per minute order dated 2/6/14.</p> <p>Paternal grandfather: Not listed          Paternal grandmother: Norma Leyva          Maternal grandfather: Not listed          Maternal grandmother: Loretta Gutierrez</p> <p><b>Petitioner states</b> she needs guardianship to care for the minors, take them to school, and obtain medical care.</p> <p><b>Court Investigator Samantha Henson's Report filed on 3/18/14.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Father, Alex Ortiz is currently (as of 3/21/14) incarcerated in the Fresno County Jail. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice on:             <ul style="list-style-type: none"> <li>• Alex Ortiz (father)</li> </ul> </li> <li>2. Need Notice of Hearing.</li> <li>3. Petition does not include the name and address of the paternal grandfather and the maternal grandfather.</li> <li>4. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on:             <ul style="list-style-type: none"> <li>• Paternal grandfather</li> <li>• Norma Leyva (paternal grandmother)</li> <li>• Maternal grandfather</li> <li>• Loretta Gutierrez (maternal grandmother)</li> </ul> </li> </ol>	
<b>Julian age: 2</b>			
<b>Cont. from</b>			
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>			
<input checked="" type="checkbox"/> <b>Verified</b>			
<input type="checkbox"/> <b>Inventory</b>			
<input type="checkbox"/> <b>PTC</b>			
<input type="checkbox"/> <b>Not.Cred.</b>			
<input type="checkbox"/> <b>Notice of Hrg</b>			<input checked="" type="checkbox"/>
<input type="checkbox"/> <b>Aff.Mail</b>			<input checked="" type="checkbox"/>
<input type="checkbox"/> <b>Aff.Pub.</b>			
<input type="checkbox"/> <b>Sp.Ntc.</b>			
<input type="checkbox"/> <b>Pers.Serv.</b>			<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> <b>Conf. Screen</b>			
<input checked="" type="checkbox"/> <b>Letters</b>			
<input checked="" type="checkbox"/> <b>Duties/Supp</b>			
<input type="checkbox"/> <b>Objections</b>			
<input type="checkbox"/> <b>Video Receipt</b>			
<input checked="" type="checkbox"/> <b>CI Report</b>			
<input type="checkbox"/> <b>9202</b>			
<input checked="" type="checkbox"/> <b>Order</b>			
<input type="checkbox"/> <b>Aff. Posting</b>			
<input type="checkbox"/> <b>Status Rpt</b>			
<input checked="" type="checkbox"/> <b>UCCJEA</b>			
<input type="checkbox"/> <b>Citation</b>			
<input type="checkbox"/> <b>FTB Notice</b>			
		<b>Reviewed by: KT</b>	
		<b>Reviewed on: 3/21/14</b>	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 12 – Ortiz</b>	

## Petition to Determine Succession to Real Property (Prob. C. 13151)

<b>DOD: 9/27/1995</b>		<b>RICHARD E. LAINE</b> , son, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		40 days since DOD.	1. Need date of death of decease spouse, Eugene Laine, pursuant to Local Rule 7.1.1D.
		No other proceedings.	
<b>Cont. from</b>			
	<b>Aff.Sub.Wit.</b>	Will dated 1/1/1990 – devises entire estate to decedent's spouse, Eugene Laine, if he survives. If Eugene does not survive the entire estate passes to petitioner, Richard E. Laine.	
✓	<b>Verified</b>		
✓	<b>Inventory</b>		
✓	<b>PTC</b>		
	<b>Not.Cred.</b>	I & A - \$140,000.00	
✓	<b>Notice of Hrg</b>	<b>Petitioner requests</b> decedent's 100% interest in real property pass to him pursuant to decedent's Will.	
✓	<b>Aff.Mail</b>	W/	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
			<b>Reviewed by: KT</b>
			<b>Reviewed on: 3/23/14</b>
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 13 – Laine</b>

Age: 1 year		GENERAL HEARING 5/13/14		NEEDS/PROBLEMS/COMMENTS:		
		<p><b>BRANDY MEDEIROS</b>, paternal grandmother, is petitioner.</p> <p>Father: <b>GABRIEL MEDEIROS</b> – personally served on 3/15/14.</p> <p>Mother: <b>AMBER LOPEZ</b> – personally served on 3/15/14.</p> <p>Paternal grandfather: Louie Ponce Maternal grandfather: Not Listed Maternal grandmother: Elaine Franco</p> <p><b>Petitioner states</b> her grandson is neglected. He comes back with bruises and a bad rash. He has a skin condition that is not being taken care of. Petitioner states she wants her grandson in a safe home environment.</p>		<p>1. Notice of Hearing is incomplete at #1. It does not list the name of the person who filed the documents and what documents were filed.</p>		
Cont. from						
	Aff.Sub.Wit.					
✓	Verified					
	Inventory					
	PTC					
	Not.Cred.					
✓	Notice of Hrg					
	Aff.Mail					
	Aff.Pub.					
	Sp.Ntc.					
✓	Pers.Serv.					W/
✓	Conf. Screen					
✓	Letters					
✓	Duties/Supp					
	Objections					
	Video Receipt					
	CI Report					
	9202					
✓	Order					
	Aff. Posting					
	Status Rpt					
✓	UCCJEA					
	Citation					
	FTB Notice					
		Reviewed by: KT				
		Reviewed on: 3/24/14				
		Updates:				
		Recommendation:				
		File 14 – Medeiros				

Pro Per Benson, Johnny Lee (Pro Per Petitioner, paternal grandfather)  
 Pro Per Benson, Paulette (Pro Per Petitioner, paternal grandmother)

**Petition for Appointment of Temporary Guardianship of the Person  
 (Prob. C. 2250)**

<b>Age: 13 years</b>		<b><u>General Hearing set for 5/19/2014</u></b>		<b>NEEDS/PROBLEMS/ COMMENTS:</b>
		<b>JOHNNY LEE BENSON and PAULETTE BENSON</b> , paternal grandparents, are Petitioners.		
<b>Cont. from</b>		Father: <b>SHAWN LEE BENSON</b> ; <i>consents and waives notice.</i>		
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
	<b>Inventory</b>		Mother: <b>JEANINE EVALEEN AVALLI</b> ; <i>consents and waives notice.</i>	
	<b>PTC</b>			
	<b>Not.Cred.</b>			
	<b>Notice of Hrg</b>	N/A	Minor consents and waives notice.	
	<b>Aff.Mail</b>		Maternal grandfather: Mario Avalli	
	<b>Aff.Pub.</b>		Maternal grandmother: Sharon Scagliotti	
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>		<b>Petitioners state</b> the child requires a temporary guardian as CPS has become involved and advised the Petitioners to file for immediate guardianship due to the parents both having long histories of substance abuse, instability, and excessive consumption of alcohol. Petitioners state the father has been incarcerated 3 times stemming from domestic violence between he and the child's mother during their marriage. Petitioners state they have been caring for the child since 2009, when he came to reside with them by request of the child and agreement from the parents due to the child's fear and concern about continuing to reside with his parents. Petitioners state the father took the minor into his custody in ~November 2013, and on 2/12/2014 at 7:00 am, the minor called Petitioners stating he was scared as his parents were fighting, drinking and using drugs in his presence and asked Petitioners to come get him, which they did, and following Coalinga police interview of the child later that day, CPS placed the child with Petitioners.	
✓	<b>Conf. Screen</b>			
✓	<b>Letters</b>			
✓	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
✓	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			

<b>Reviewed by:</b> LEG
<b>Reviewed on:</b> 3/24/14
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 15 – Benson</b>

**Petition for Appointment of Temporary Guardianship of the Person**

<b>Age: 16</b>	<b><u>GENERAL HEARING 05/19/14</u></b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>EVA GUERRERO and ANTHONY GUERRERO</b> , maternal grandparents, are Petitioners.	<p>1. Need proof of personal service at least 5 court days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent &amp; Waiver of Notice <u>or</u> Declaration of Due Diligence for:</p> <ul style="list-style-type: none"> <li>- Michael Abrantes (father)</li> <li>- Rebecca Harron (mother)</li> <li>- Brittani Guerrero (minor)</li> </ul>
	Father: <b>MICHAEL ABRANTES</b>	
	Mother: <b>REBECCA HARRON</b>	
	Paternal grandfather: MICHAEL ABRANTES – deceased	
	Paternal grandmother: JODY MARTINEZ	
	Sibling: MICHAEL ABRANTES, Jr.	
	<b>Petitioners allege</b> that temporary guardianship is needed because the minor needs dental work and to prevent the minor's mother from coming and picking her up. The mother abuses drugs and alcohol and is homeless. The father is incarcerated and does not want the responsibility of children.	
<b>Cont. from</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
<input type="checkbox"/> <b>Aff.Mail</b>		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/> <b>Conf. Screen</b>		
<input checked="" type="checkbox"/> <b>Letters</b>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input checked="" type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 03/24/14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 16 – Guerrero-Abrantes</b>